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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,383	03/29/2004	Toshio Ando	0275M-659COB	2624

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EXAMINER

MILLER, WILLIAM L

ART UNIT PAPER NUMBER

3677

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/812,383

Applicant(s)

ANDO ET AL.

Examiner

William L. Miller

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 03292004.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over anticipated by Japanese 11-223207 (hereinafter "JP207") in view of Mizuno et al. (US#6443678), and further in view of Bodin (US#6146076).

3. Regarding claim 1, and as admitted by the applicant on page 2 of the specification of the instant application, JP207 discloses an elastic fastener 1 comprising: a hollow tubular portion 10; an internally threaded portion 11 provided at the lower end of the tubular portion; a flange (10a) formed at the upper end of the tubular portion; the tubular portion and flange integrally formed with each other and made of an elastomeric material, namely rubber; and the internally threaded portion being formed of metal and having a nut shape wherein it is integrally fixed to the tubular portion in a hole thereof.

4. Although JP207 fails to disclose the tubular portion being made of the claimed elastomeric materials, the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). In any event, utilizing a polyamide-based elastomeric material for its inherent strength and tensile elongation properties is known in the fastener art as evidenced by Mizuno (col. 2, lines 15-20). Therefore, as taught by Mizuno, it would have been obvious to one

of ordinary skill in the art at the time the invention was made to modify the JP207 fastener by utilizing a tubular portion made of a polyamide-based elastomeric material for its inherent strength and tensile elongation properties.

5. Although JP207 fails to disclose the internally threaded portion being made of the claimed rigid resin materials, the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). In any event, utilizing a nylon-based resin for its inherent material properties is known in the fastener art is known as evidenced by Bodin (col. 2, lines 52-57). Therefore, as taught by Bodin, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the JP207 fastener by utilizing an internally threaded portion made of a nylon-based resin to improve resiliency and provide a reduction in weight.

6. Regarding claim 2, although the JP207 as modified fails to specifically disclose the polyamide-based elastomeric material having a JIS-A hardness in the range of 40 to 90 degrees as claimed by the applicant, it would have been an obvious design choice to utilize a polyamide-based elastomeric material having a JIS-A hardness in the range of 40 to 90 degrees since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

7. Regarding claims 3 and 4, although JP207 as modified discloses the flange and tubular portion are integrally formed and the internally threaded portion is formed as a single piece which is joined to the tubular portion, JP207 as modified fails to disclose the method limitations of injection molding and fusion bonding as claimed by the applicant. However, the applicant is

Art Unit: 3677

reminded method limitations are given little patentable weight in an article claim as the patentability of a product does not depend on its method of production. See MPEP 2113.

Conclusion

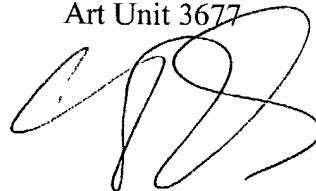
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is 703 305 3978. The examiner can normally be reached on Tuesday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703 306 4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William L. Miller
Primary Examiner
Art Unit 3677



WLM
07-08-2004